

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-13-05)
RX VENTURE LLC
JULY 17, 2013

This is a report to the Flathead County Board of Adjustment regarding a request from APEC Engineering Inc. on behalf of the RX Venture LLC for a conditional use permit to allow for multiple principal uses on a single lot. The subject property is located within the Lakeside Zoning District and is zoned 'LS Lakeside' (Special Commercial).

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on August 6, 2013 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is located within the advisory jurisdiction of the Lakeside Community Council (LCC). However, the LCC By-laws state, "Review applications to FCPZ affecting development or growth in the Lakeside planning area and make recommendations, via FCPZ, to the Flathead County Planning Board and Board of Commissioners." The LCC does not make recommendations on Conditional Use Permit applications to the Board of Adjustments.

B. Board of Adjustment

This space is reserved for an update regarding the August 6, 2013 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

Mark Liechti
APEC Engineering
111 Legend Trail
Kalispell, MT 59901

ii. Landowner

RX Venture LLC
7100 U.S. Highway 93 South
Lakeside, MT 59922

B. Property Location and Size

The subject property is located at 7240 U.S Highway 93 South in Lakeside, MT (see Figure 1 below). The property can be legally described as Tract 4BBC and 4BBAA and a portion of Block 10 of Lacon plat located in Section 18, Township 26 North, Range 20 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property shaded yellow



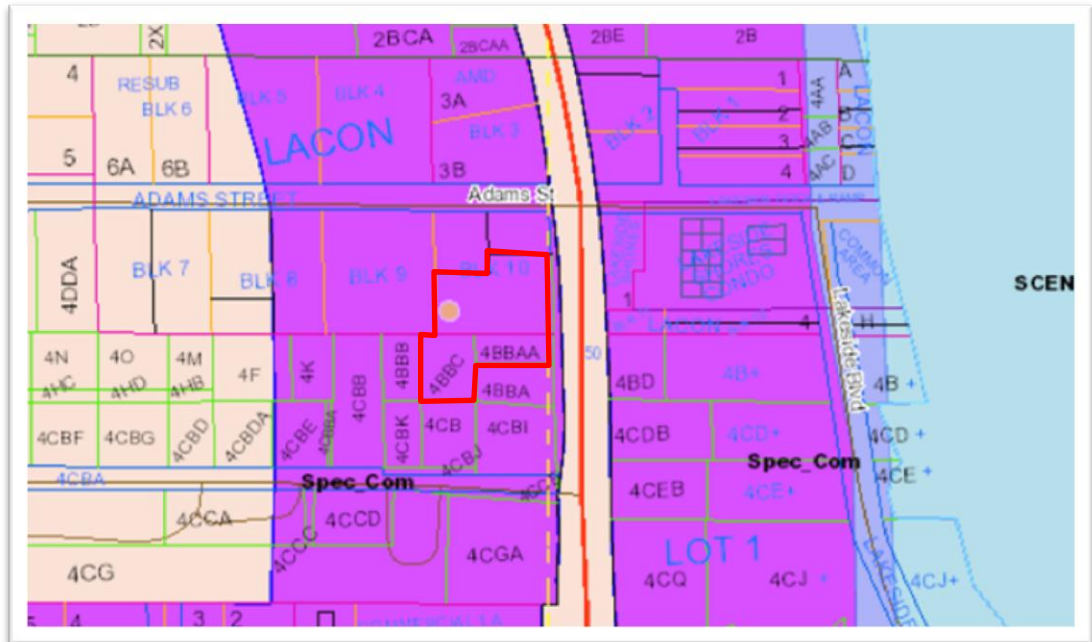
C. Existing Land Use(s) and Zoning

The property is currently undeveloped and is located within the Lakeside Zoning District and is zoned ‘LS Lakeside (Special Commercial),’ a designation intended to *“further the goals of the Lakeside Neighborhood Plan by providing for orderly development of Lakeside and specifically by providing for a commercial center, encouraging residential development within existing neighborhoods by establishing height and setback standards that reflect the existing pattern of growth and by protecting existing uses within the community of Lakeside”* The ‘Lakeside’ zoning is unlike other designation in Flathead County because it establishes additional permitted uses for a ‘Special Commercial’ area, defined as property along US Highway 93 between Bierney Creek Road and Ben Williams Lane in downtown Lakeside.

D. Adjacent Land Use(s) and Zoning

All of the surrounding properties are zoned ‘LS Lakeside’ and are also located in the Special Commercial District. The property directly to the north is a church and the properties to the west are residential. To the south and across the street to the east are existing businesses.

Figure 2: Zoning surrounding the subject property (shaded red)



E. Summary of Request

The applicant is proposing to construct a building with multiple principal uses. The uses include a pharmacy, restaurant, retail, professional offices, medical offices, and general office space. The property consists of three tracts, based on the site plan it appears two of the tracts will be used for primarily for parking. The largest tract will contain the majority of the building and the uses. The subject properties proposed for multiple principal uses are within the ‘Special Commercial’ zoning area and the proposed uses would be permitted subject to a conditional use permit for multiple principal uses, pursuant to Section 3.03.020(3) FCZR.

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on July 18, 2013, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application will be published in the July 21, 2013 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on June 25, 2013:

- Montana Department of Transportation
 - Reason: The property is located on a U.S. Highway, and has the potential to impact MDT facilities.
- Flathead County Solid Waste (FCSW)
 - Reason: The property is located within the department’s jurisdiction, and has the potential to impact county facilities.
- Somers Fire Department
 - Reason: The property is located within the department’s jurisdiction, and has the potential to impact Somers Fire Department response.

- Lakeside Water and Sewer District
 - Reason: The property is located within the department's jurisdiction, and has the potential to impact Lakeside Water and Sewer District facilities.
- Flathead City-County Environmental Health Department
 - Reason: The property is located within the department's jurisdiction.
- Flathead County Weeds and Parks Department
 - Reason: The property is located within the department's jurisdiction and new construction could lead to the development of weeds of the subject property.
- Bonneville Power Administration
 - Reason: The BPA has requested a copy of all agency referrals.

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the conditional use permit request. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for August 6, 2013. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Lakeside Sewer and Water
 - Comment: We have no issue with the proposed use of lot 4BBC and 4BBAA in Lakeside from a water & sewer standpoint. We also have the capacity to serve the proposed facility.
- Bonneville Power Administration
 - Comment: BPA does not have any objections to the approval of this request at this time.
- Flathead County Solid Waste District
 - Comment: The District requires that all solid waste generated at the proposed location be hauled by a private hauler. Allied waste is the licensed (PSC) Public Service Commission licensed hauler in the area.
- Montana Department of Transportation
 - Comment: The property currently directly accesses US HWY 93 by two existing approach and the proposal is to continue to use those approaches. Since this will be a change in use of the property as while as the proposal indicates installing new sidewalk then the owners will need to contact the MDT Kalispell Office and a complete Driveway Approach Application & Permit; and an environmental checklist. Dave Rauser is the contact person for issuing approach permits in this area. He can be contacted at (406) 751-2011.
- Flathead City-County Health Department
 - Comment: The proposed development does not require further sanitation review by this office as the parcel is served by Lakeside Water and Sewer district. Prior to opening, the proposed restaurant

must obtain a Food Purveyor License issued by the Food and Consumer Safety Section, DPHHS, State of Montana. Please contact the Environmental Health Office for a plan review to begin the licensure process.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate Usable Space

All three of the tracts are a total of 47,916 square feet in size, the minimum lot size in 'LS' is 10,000 square feet for commercial properties. The applicant is proposing to construct a building that covers 7,600 square foot of the property. Section 3.42.050 of the Flathead County Zoning Regulations does not list a value for maximum permitted lot coverage in the 'LS' zoning.

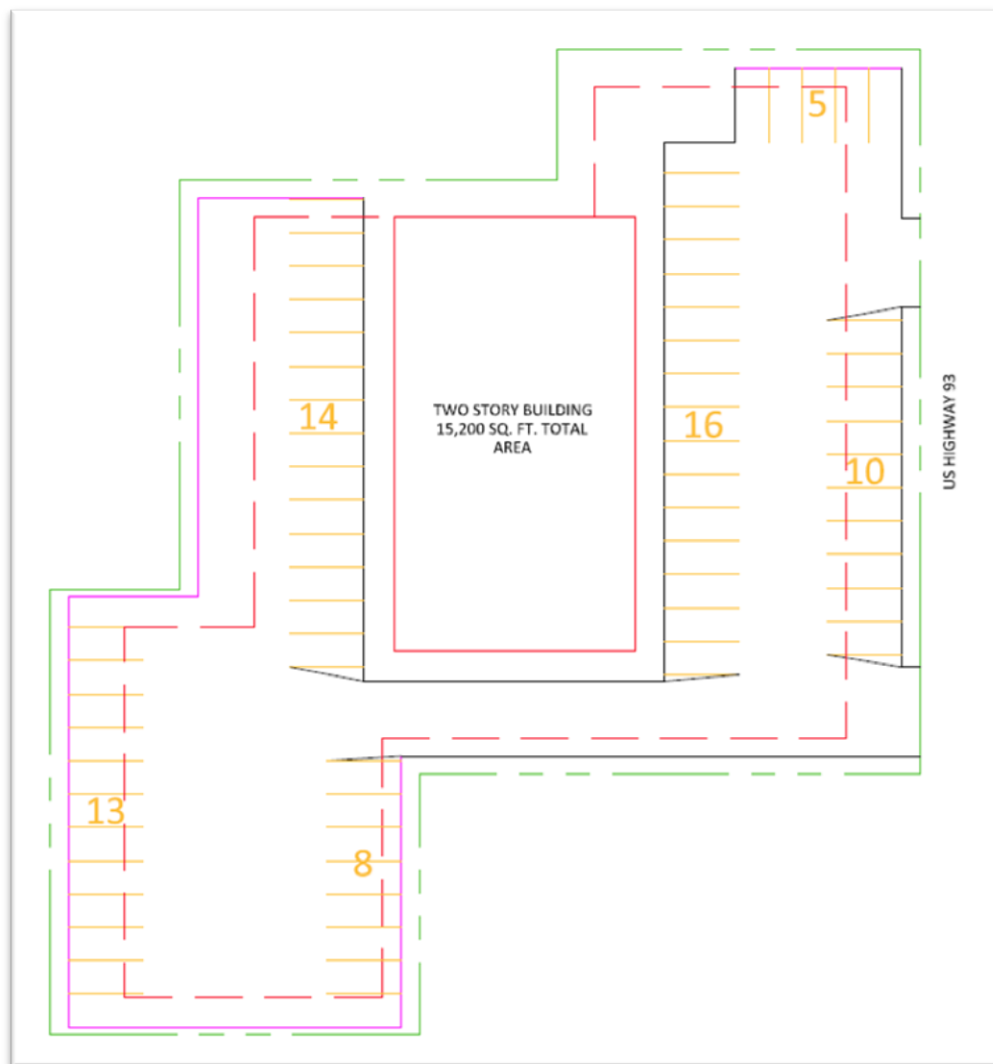
Figure 3: Lot is currently vacant



The site plan shows 66 parking spaces on the subject property and the proposed use requires 66 parking spaces. The front and rear setbacks for the property are 20 feet and the side setback is 10 feet. Based on the submitted site plan and staff's site visit there appears to be adequate space to accommodate the proposed use on the property.

Finding #1 – The subject property appears to contain adequate usable space because the total area is approximately 47,916 square feet, there is no maximum lot coverage in 'LS', and there will be adequate room to meet the setback and parking requirements.

Figure 4: Proposed site plan



ii. Adequate Access

The subject property is located on the west side of U.S. Highway 93, a paved highway approximately 52 feet wide. The site plan shows two approaches one on the north and one on the south side of the subject property both via Highway 93. According to the applicant, "The property currently has two approaches off U.S. Highway 93, the proposed layout envisions both approaches to be used for the project." Based on staff's site visit it appears there is adequate sight distances from the proposed accesses to enter and exit the property safely.

All access onto Montana Department of Transportation (MDT) maintained roads shall have been approved by MDT with the issuance of an approach permit. MDT provided comment stating, "The property currently directly accesses US HWY 93 by two existing approach and the proposal is to continue to use those approaches. Since this will be a change in use of the property as while as the proposal indicates installing new sidewalk then the owners will need to contact the MDT Kalispell Office and a complete Driveway Approach

Application & Permit; and an environmental checklist.” The existing approaches will be required to be re-reviewed by MDT.

Figure 5: Highway 93 in front of subject property



Finding #2 – There is adequate access for the proposed use because the site plan shows two approaches via Highway 93, there is adequate sight distance to safely enter and exit the property and the applicant will need to obtain an approach permit from MDT.

iii. Absence of Environmental Constraints

The subject property is located on FEMA FIRM panel 30029C 2300G, in an unshaded Zone X, which is classified as an area outside the 500-year floodplain. There are no wetlands, streams, or creeks located on the parcel. The subject property is relatively flat with no significant elevation changes. The property contains open space with a few trees, grass and weeds.

Finding #3 – As proposed, the use appears to not have any environmental constraints because the property is relatively flat, not located in a designated floodplain, and no wetlands, streams or creeks are located on the subject property.

B. Appropriateness of Design

i. Parking Scheme

The total parking spaces required for all proposed use would total 66 parking spaces. According to the submitted application and site plan, the applicant is proposing 66 parking spaces. The required parking spaces are broken down as follows:

- Section 6.09.010 of the zoning regulations requires 1 parking space per 300 square feet of gross floor area for retail space. The total retail floor area for the proposed building is 5,800 square feet, which would require

19 parking spaces. The applicant has provided 19 parking spaces for retail space.

- For restaurant 1 parking space per 4 seats plus 1 space per employee are required, per Section 6.07.020. The proposed restaurant will contain 40 seats, meaning 10 parking spaces are required for total seats. The applicant has provided 5 additional spaces for employee parking, for a total of 15 spaces.
- Section 6.08.020 requires 1 parking space per 400 square feet of office space. The applicant is proposing 4,600 square feet of office space, which would require 12 parking spaces. The applicant has provided 12 parking spaces for office space.
- The applicant has provided 20 parking spaces for the 3,000 square feet of floor area proposed for the medical offices. Medical offices require 1 parking space per 150 square feet of gross floor area, which would require 20 parking spaces.

The site plans shows a driving lane, between parking spaces, 24 feet wide for two-way traffic, meeting the requirements set forth in Appendix A [FCZR] based on the angle of the parking. Section 6.01.030 [FCZR] requires all parking spaces to be clearly designated and demarcated, therefore, the applicant will be required to clearly designate and demarcate parking spaces. Based on the applicant's submitted site plan and staff's site visit to the subject property, there appears to be adequate space for the required parking.

ii. Traffic Circulation

The subject property is located on U.S. Highway 93, a paved highway approximately 52 feet wide. The site plan shows two approaches one on the north and one on the south side of the subject property off of Highway 93. The existing driveways are 12 foot wide and gravel.

The applicant is proposing to install a paved approach and parking lot. The site plan shows traffic aisles approximately 20 feet to 24 feet wide. The 24 foot traffic aisle is required for two way traffic with 90 degree parking per Appendix A [FCZR]. The driveway width of 24 feet would provide for adequate travel lanes and area to turn around. The proposed parking area appears large enough to accommodate the number of proposed spaces, while affording adequate and compliant internal traffic circulation.

Finding #4 – The parking scheme and traffic circulation is acceptable because the site plan shows 66 designated and demarcated parking spots equal to the 66 required, and a 24 foot wide driving lane and the traffic aisle widths meet standards set forth in Appendix A [FCZR].

iii. Open Space

As previously discussed, the proposed building will cover 7,600 square feet of the property. Lot coverage within the 'LS' zoning is not applicable. Most of the property will be built-out with a parking lot to allow for adequate parking on

the subject property. According to the applicant most open space will be on the north side of the building.

iv. Fencing/Screening

Currently there is a chain link fence located on the west boundary line and a wooden and chain link fence located on the south property line. All three of the existing fences appear to be on adjacent properties. The application states, “Fencing or screening is not proposed as part of this project.” Any future fencing constructed on the property would be required to comply with Section 5.04 [FCZR].

v. Landscaping

In the ‘LS’ zoning there are no landscaping requirements. The application states, “Landscaping will be provided on the north side of the building and along the highway frontage.”

Finding #5 – The proposed open space, fencing/screening, and landscaping on the subject property appear adequate because the ‘LS’ zone has no lot coverage requirements, the applicant is providing landscaping and no screening or fencing is being proposed.

vi. Signage

There is currently no signage on the subject property and the applicant submitted no elevation drawing of the proposed new sign. However, according to the applicant, “Signage will comply with the Flathead County Sign Ordinance.” In addition to the signage regulations found in Section 5.11 FCZR, stricter signage requirements exist for the ‘LS’ zoning designation. These requirements include; a 15 foot maximum height for free standing poles or ground mounted signs, signs that extend above the roofline are prohibited, and flashing blinking or rotating signs and lights are prohibited. All signage installed must conform to Section 5.11 and Section 3.42.050(4) FCZR.

Finding #6 – There will be limited impacts resulting from signage because the applicant has stated that any signage would comply with sign standards set forth in the Flathead County Zoning Regulations [Sections 5.11 and 3.42.050(4)] and the signage will be inspected to verify compliance at the end of one year.

vii. Lighting

There is currently no lighting on the subject property but the applicant is proposing exterior lighting on the proposed building. The applicant did not identify the type of fixtures to be used but the applicant has stated, “Exterior lighting will be hooded and all lighting will be kept within the property. All lighting shall comply with section 5.12.020.” All exterior lighting proposed for the subject properties will be required to comply with Section 5.12 of the Flathead County Zoning Regulations to prevent the intrusion of artificial lighting in or onto areas other than the subject property.

Finding #7 – There will be limited visual impacts resulting from lighting because any proposed lighting would comply with applicable requirements set

forth in Section 5.12 of the Flathead County Zoning Regulations and the lighting will be inspected to verify compliance at the end of one year.

C. Availability of Public Services and Facilities

i. Sewer

The subject property is located within the Lakeside Water and Sewer District. It is anticipated the property will be served by the public water and sewer district. Comment received from the Lakeside Water and Sewer District states, “We have no issue with the proposed use of lot 4BBC and 4BBAA in Lakeside from a water & sewer standpoint. We also have the capacity to serve the proposed facility.” The applicant will be required to connect to the Lakeside Sewer and Water District for sewer service on the subject property.

ii. Water

The subject property is located within the Lakeside Water and Sewer District. It is anticipated the property will be served by the public water and sewer district. Comment received from the Lakeside Water and Sewer District states, “We have no issue with the proposed use of lot 4BBC and 4BBAA in Lakeside from a water & sewer standpoint. We also have the capacity to serve the proposed facility.” The applicant will be required to connect to the Lakeside Sewer and Water District for water service on the subject property.

Finding #8 – The proposed use is expected to minimally impact public water and sewer services because water and sewer service is available from the Lakeside Water and Sewer District and Lakeside Water and Sewer District has stated they have capacity.

iii. Storm Water Drainage

It is anticipated that storm water runoff will be increased as a result of this request. The applicant is proposing to extend the storm drainage system from the corner of Adams Street and U.S. Highway 93 to the south to capture storm runoff. Anytime a parcel has a change of use, in this case it would be a change from a vacant lot to a commercial building; it prompts a review from DEQ.

Finding #9 – The proposed method of storm water management appears adequate because the applicant will extend the storm drainage system and the property will be required to be re-reviewed for appropriate storm water management, by DEQ, this can be a condition of approval and will be reviewed for compliance at the end of one year.

iv. Fire Protection

The subject property is currently served by the Somers Fire Department, and is located less than a 1/4 of a mile southeast of an existing fire station. Due to the centralized location of the property in Lakeside and proximity to the fire station, it is anticipated response times in the event of an emergency would not be unreasonably long.

v. Police Protection

The property would be served by the Flathead County Sheriff's Department. Response times appear reasonable given the property's proximity to U.S. Highway 93 and location within the community of Lakeside.

vi. Streets

As discussed previously, the subject property access is via U.S. Highway 93 and is located on the west side of the highway. U.S. Highway 93 is a paved highway approximately 52 feet wide and maintained by the Montana Department of Transportation.

Finding #10 – The proposed use appears to have acceptable impacts on public services and facilities because the Somers Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by U.S. Highway 93, a paved MDT maintained highway.

D. Immediate Neighborhood Impact

i. Excessive Traffic Generation

The closest traffic count site for U.S. Highway 93 conducted by the Montana Department of Transportation is located north of the community of Lakeside. Traffic counts taken by the Montana Department of Transportation for Highway 93 in 2011 indicate AADT to be 8,400.

Staff utilizes the 5th Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual to provide traffic counts for different land uses. The most applicable land use was General Office Building. The description given for General Office Building states, "An office building or buildings may contain a mixture of tenants including professional services, insurance companies, investment brokers, and tenant services such as a bank or savings and loan, a restaurant or cafeteria, and retail facilities." According to the 5th Edition the Average Weekday Vehicle Trip Ends for General Office Building is approximately 24.60 per 1,00 square feet. The proposed building is approximately 15,200 square feet, therefore the estimated average vehicle trips per day is 374.

The proposed conditional use could generate an additional 374 AADT, which would contribute to an increase of 4.5% AADT on Highway 93 based on 8,400 AADT. It is anticipated that because Highway 93 is state maintained highway it would be capable of handling the increased traffic. MDT provided comment stating, "The property currently directly accesses US HWY 93 by two existing approach and the proposal is to continue to use those approaches. Since this will be a change in use of the property as while as the proposal indicates installing new sidewalk then the owners will need to contact the MDT Kalispell Office and a complete Driveway Approach Application & Permit; and an environmental checklist."

Finding #11 – Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood because it is anticipated that U.S. Highway 93 a MDT

maintained road could handle the traffic generated from the proposed use and a condition can be added requiring MDT review of approach.

ii. Noise or Vibration

While some noise and vibration will naturally result from construction activities related to the construction of the building and parking lot, these impacts will be limited in duration and should not negatively impact the surrounding area. No noise or vibration beyond what is typical for a commercial area is anticipated as a result of the proposed multiple principal uses.

iii. Dust, Glare or Heat

While some dust is anticipated during construction activities, the resulting impacts will be limited. Excessive dust is not anticipated as a result of the proposed multiple uses, as U.S. Highway 93 is paved and the parking lot will be paved or concrete.

Increased impervious surface area and windows do have the potential to increase the impacts of glare and heat on the subject property as well as surrounding area. However, these impacts can be mitigated by retaining open space on the subject property in conformance with the setback requirements of the zoning and ideally, landscaping these areas or maintaining them as grass.

iv. Smoke, Fumes, Gas, or Odors

The proposed multiple principal uses are not expected to create any smoke, fumes, gas or odors beyond those typically associated with commercial activities. According to the applicant, "The proposed uses including the restaurant will provide all necessary equipment to keep smoke and odors under control. Gas and fumes are not anticipated." The proposed use should not have an impact on the surrounding neighborhood.

v. Inappropriate Hours of Operation

The subject property is located in the 'LS' Special Commercial District within the Lakeside zoning district and is primarily surrounded by commercial uses. According to the application, "The hours of operation are typical business hours for the type of business proposed." It appears likely that the hours of operation would be similar to other business located in the vicinity of the property and would not be inappropriate due to prevailing similar uses in the area.

Finding #12 – The proposed use is not anticipated to have an immediate neighborhood impact because the proposed use will not create excessive noise, vibration, dust, heat, glare, smoke, fumes, gas, other odors, or have inappropriate hours of operation and the uses will operate in a manner consistent with commercial uses and the surrounding commercial area.

V. SUMMARY OF FINDINGS

Finding #1 – The subject property appears to contain adequate usable space because the total area is approximately 47,916 square feet, there is no maximum lot coverage in 'LS', and there will be adequate room to meet the setback and parking requirements.

Finding #2 – There is adequate access for the proposed use because the site plan shows two approaches via Highway 93, there is adequate sight distance to safely enter and exit the property and the applicant will need to obtain an approach permit from MDT.

Finding #3 – As proposed, the use appears to not have any environmental constraints because the property is relatively flat, not located in a designated floodplain, and no wetlands, streams or creeks are located on the subject property.

Finding #4 – The parking scheme and traffic circulation is acceptable because the site plan shows 66 designated and demarcated parking spots equal to the 66 required, and a 24 foot wide driving lane and the traffic aisle widths meet standards set forth in Appendix A [FCZR].

Finding #5 – The proposed open space, fencing/screening, and landscaping on the subject property appear adequate because the ‘LS’ zone has no lot coverage requirements, the applicant is providing landscaping and no screening or fencing is being proposed.

Finding #6 – There will be limited impacts resulting from signage because the applicant has stated that any signage would comply with sign standards set forth in the Flathead County Zoning Regulations [Sections 5.11 and 3.42.050(4)] and the signage will be inspected to verify compliance at the end of one year.

Finding #7 – There will be limited visual impacts resulting from lighting because any proposed lighting would comply with applicable requirements set forth in Section 5.12 of the Flathead County Zoning Regulations and the lighting will be inspected to verify compliance at the end of one year.

Finding #8 – The proposed use is expected to minimally impact public water and sewer services because water and sewer service is available from the Lakeside Water and Sewer District and Lakeside Water and Sewer District has stated they have capacity.

Finding #9 – The proposed method of storm water management appears adequate because the applicant will extend the storm drainage system and the property will be required to be re-reviewed for appropriate storm water management, by DEQ, this can be a condition of approval and will be reviewed for compliance at the end of one year.

Finding #10 – The proposed use appears to have acceptable impacts on public services and facilities because the Somers Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by U.S. Highway 93, a paved MDT maintained highway.

Finding #11 – Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood because it is anticipated that U.S. Highway 93 a MDT maintained road could handle the traffic generated from the proposed use.

Finding #12 – The proposed use is not anticipated to have an immediate neighborhood impact because the proposed use will not create excessive noise, vibration, dust, heat, glare, smoke, fumes, gas, other odors, or have inappropriate hours of operation and the uses will operate in a manner consistent with commercial uses and the surrounding commercial area.

VI. CONCLUSION

Upon review of this application, the request to allow for a multiple principal uses on a single lot is generally supported by the review criteria and the 12 Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-13-05 as Findings of Fact and approve the conditional use permit, the following 9 conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS

1. Operation of the proposed use on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The approved use shall conform to the applicable standards of the 'LS - Lakeside' [FCZR Section 3.42].
4. A minimum of 66 standard vehicle parking spaces attributable to the proposed uses shall be clearly established and demarcated on the subject property, in accordance with applicable zoning regulations [FCZR Sections 6.01.010, 6.01.030, Appendix A].
5. The proposed use shall be re-reviewed by the Montana Department of Transportation in order to obtain an updated approach permit applicable to multiple principal uses. A copy of the approved permit shall be available upon request by Flathead County Planning and Zoning.
6. All signage on the subject property shall comply with all applicable standards and guidelines set forth under Section 5.11 and 3.42.050(4) of the Flathead County Zoning Regulations.
7. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
8. The construction of the building shall commence within one year from the date of issuance of the permit. The permit may be extended for one additional year if the permittee requests additional time prior to expiration date [FZR Section 2.06.060].
9. At the end of twelve (12) months from the date of authorization of this permit staff will inspect to verify compliance [FZCR Section 2.06.060].

Planner: EKM